S.B. Civil Misc. Appeal No.1040/2006.
(Smt. Shanta Bai & Ors. Vs. I.M.Rewari & Ors.)

Date of Order :: 15th December 2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. S.K.Sankhla, for the appellants.

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Having heard learned counsel for the appellants and having perused the record, this Court is of opinion that though the award made by the Tribunal in this case awarding compensation in the sum of Rs.1,01,000/- to the wife and sons of deceased Mangilal, about 60 years in age, stands wee bit on lower side, but cannot be said to be grossly inadequate so as to warrant interference in appeal.

For quantification of compensation payable in this case, the Tribunal has noticed that the deceased Mangilal was about 60 years of age and was carrying business in the name and style of Mahalaxmi Paints and Hardware Mart but no accounts books or tax returns etc. were produced on record so as to consider monthly income of the deceased at Rs.5,000-6,000/- per month as alleged. The Tribunal has taken the age of the deceased at 60-61 years as stated in the post-mortem report and his income on notional basis at Rs.1,800/- per month and loss of contribution at Rs.1,200/- per month. The Tribunal has

proceeded to capitalize by application of multiplier of 5; and allowing Rs.5,000/- to each of the claimants towards non-pecuniary loss and Rs.2,000/- for funeral expenses has awarded total compensation in the sum of Rs.1,01,000/-.

Though the Tribunal has taken income of 60 years old businessman only at Rs.1,800/- per month much on the lower side, but then, for the very reason of the source of earning being by way of a business, a part of such business income retains itself to the claimants. The claimants have asserted that business had been closed down but nothing has been clarified regarding business assets and goods. Then, in view of the age of the claimants and the sons of the deceased being earning in their services, the contribution from the deceased cannot be taken at entire of two-third of his income; and is not likely to be more than one-half of his earnings.

In this view of the mater, though the assessment made by the Tribunal stands on lower side but ultimate award made in this case cannot be said to be grossly inadequate so as to warrant interference in appeal.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI),J.

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